

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 29, 2003

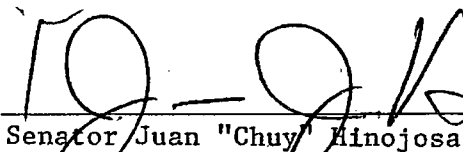
Date

Honorable David Dewhurst
President of the Senate

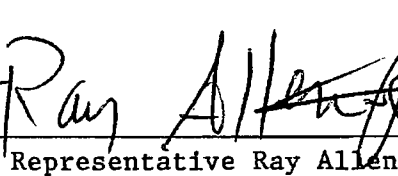
Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

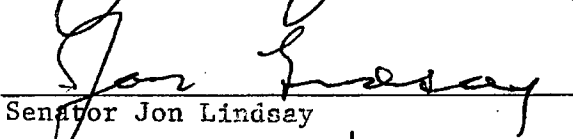
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SS HB 9 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



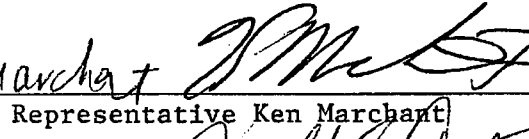
Senator Juan "Chuy" Hinojosa



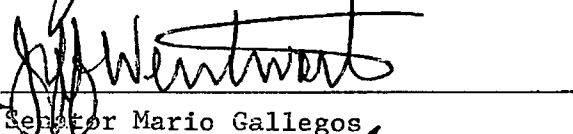
Representative Ray Allen



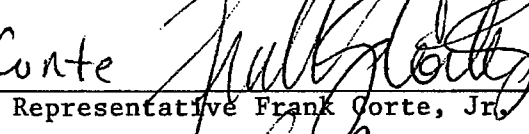
Senator Jon Lindsay



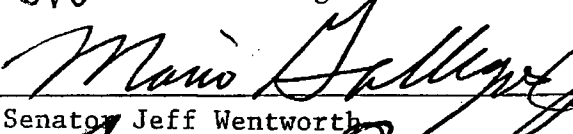
Representative Ken Marchant



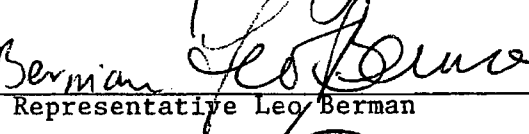
Senator Mario Gallegos



Representative Frank Corte, Jr.




Senator Jeff Wentworth



Representative Leo Berman



Senator Florence Shapiro, Chair
On the part of the Senate



Representative Kino Flores, Chair
On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

MAY 30 2003

1:20 pm

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 9

A BILL TO BE ENTITLED

AN ACT

relating to homeland security.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 4, Government Code, is amended by adding Chapter 421 to read as follows:

CHAPTER 421. HOMELAND SECURITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 421.001. DEFINITIONS. In this chapter:

(1) "Agency" means any governmental entity.

(2) "Critical infrastructure" includes all public or private assets, systems, and functions vital to the security, governance, public health and safety, economy, or morale of the state or the nation.

(3) "Homeland security activity" means any activity related to the prevention or discovery of, response to, or recovery from a terrorist attack, natural or man-made disaster, hostile military or paramilitary action, or extraordinary law enforcement emergency.

Sec. 421.002. HOMELAND SECURITY STRATEGY. (a) The governor shall direct homeland security in this state and shall develop a statewide homeland security strategy that improves the state's ability to:

(1) detect and deter threats to homeland security;

(2) respond to homeland security emergencies; and

1 (3) recover from homeland security emergencies.

2 (b) The governor's homeland security strategy shall
3 coordinate homeland security activities among and between local,
4 state, and federal agencies and the private sector and must include
5 specific plans for:

6 (1) intelligence gathering and analysis;

7 (2) information sharing;

8 (3) reducing the state's vulnerability to homeland
9 security emergencies;

10 (4) protecting critical infrastructure;

11 (5) protecting the state's international border,
12 ports, and airports;

13 (6) detecting, deterring, and defending against
14 terrorism, including cyber-terrorism and biological, chemical, and
15 nuclear terrorism;

16 (7) positioning equipment, technology, and personnel
17 to improve the state's ability to respond to a homeland security
18 emergency;

19 (8) directing the Texas Infrastructure Protection
20 Communications Center and giving the center certain forms of
21 authority to implement the governor's homeland security strategy;
22 and

23 (9) using technological resources to:

24 (A) facilitate the interoperability of
25 government technological resources, including data, networks, and
26 applications;

27 (B) coordinate the warning and alert systems of

1 state and local agencies;

2 (C) incorporate multidisciplinary approaches to
3 homeland security; and

4 (D) improve the security of governmental and
5 private sector information technology and information resources.

6 (c) The governor's homeland security strategy must
7 complement and operate in coordination with the federal homeland
8 security strategy.

9 Sec. 421.003. CRIMINAL INTELLIGENCE INFORMATION. The
10 Department of Public Safety of the State of Texas is:

11 (1) the repository in this state for the collection of
12 multijurisdictional criminal intelligence information that is
13 about terrorist activities or otherwise related to homeland
14 security activities; and

15 (2) the state agency that has primary responsibility
16 to analyze and disseminate that information.

17 Sec. 421.004. PROVISIONS GOVERNING MOBILE TRACKING
18 DEVICES. In the event of a conflict between Section 14, Article
19 18.21, Code of Criminal Procedure, and this chapter or a rule
20 adopted under this chapter, Section 14, Article 18.21, Code of
21 Criminal Procedure, controls.

22 [Sections 421.005-421.020 reserved for expansion]

23 SUBCHAPTER B. CRITICAL INFRASTRUCTURE PROTECTION COUNCIL

24 Sec. 421.021. MEMBERSHIP. (a) The Critical Infrastructure
25 Protection Council is composed of the governor or the governor's
26 designee and one representative of each of the following entities,
27 appointed by the single statewide elected or appointed governing

officer or administrative head of the entity:

(1) Department of Agriculture;

(2) office of the attorney general;

(3) General Land Office;

(4) Public Utility Commission of Texas;

(5) Texas Department of Health;

(6) Department of Information Resources;

(7) Department of Public Safety of the State of Texas;

(8) division of emergency management of the office of
the governor;

(9) Texas National Guard;

(10) Texas Commission on Environmental Quality;

(11) Railroad Commission of Texas;

(12) Texas Strategic Military Planning Commission;

and

(13) Texas Department of Transportation.

(b) To be eligible for appointment as a member of the
council, a person must be directly involved in the policies,
programs, or funding activities of the appointing agency, office,
or division that are relevant to homeland security or
infrastructure protection.

(c) A member of the council serves at the will of the
governor. At the request of the governor, an appointing authority
under this section shall appoint a different member.

(d) An officer or employee of a state or local agency who
serves as a member of the council or a special advisory committee
under this subchapter shall perform the duties required by the

1 council or special advisory committee as an additional duty of the
2 member's office or employment.

3 Sec. 421.022. REIMBURSEMENT OF EXPENSES. A member of the
4 council may not receive additional compensation for service on the
5 council but is entitled to reimbursement of reasonable expenses
6 incurred in direct performance of official duties, including travel
7 expenses incurred by the member while conducting the business of
8 the council, subject to any applicable limitation on reimbursement
9 provided by general law or the General Appropriations Act.

10 Sec. 421.023. ADMINISTRATION. (a) The council is an
11 advisory entity administered by the office of the governor.

12 (b) The governor may adopt rules as necessary for the
13 operation of the council.

14 (c) The governor shall designate the presiding officer of
15 the council.

16 (d) The council shall meet at the call of the governor and
17 shall meet at least once each quarter in a calendar year.

18 (e) The council is not subject to Chapter 2110.

19 Sec. 421.024. DUTIES. The council shall advise the
20 governor on:

21 (1) the development and coordination of a statewide
22 critical infrastructure protection strategy;

23 (2) the implementation of the governor's homeland
24 security strategy by state and local agencies and provide specific
25 suggestions for helping those agencies implement the strategy; and

26 (3) other matters related to the planning,
27 development, coordination, and implementation of initiatives to

1 promote the governor's homeland security strategy.

2 Sec. 421.025. SPECIAL ADVISORY COMMITTEES. (a) The
3 governor may appoint one or more special advisory committees
4 composed of representatives from state or local agencies or
5 nongovernmental entities not represented on the council.

6 (b) The governor shall determine the number of members and
7 qualifications for membership on a special advisory committee under
8 this section.

9 (c) A special advisory committee under this section shall
10 assist the council in performing its duties.

11 (d) A special advisory committee under this section is
12 subject to Chapter 2110, except that Section 2110.002 does not
13 apply.

14 Sec. 421.026. REPORT. The council shall annually submit to
15 the governor a report stating:

16 (1) the council's progress in developing and
17 coordinating a statewide critical infrastructure protection
18 strategy;

19 (2) the status and funding of state programs designed
20 to detect and deter homeland security emergencies, including the
21 status and funding of counterterrorism efforts;

22 (3) recommendations on actions to reduce threats to
23 homeland security, including threats related to terrorism; and

24 (4) recommendations for improving the alert,
25 response, and recovery capabilities of state and local agencies.

26 [Sections 421.027-421.060 reserved for expansion]

27 SUBCHAPTER C. CIVIL LIABILITY FOR ACTS OR OMISSIONS

1 Sec. 421.061. CIVIL LIABILITY. (a) An officer or employee
2 of a state or local agency performing a homeland security activity
3 or a volunteer performing a homeland security activity at the
4 request or under the direction of an officer or employee of a state
5 or local agency is considered for purposes of Section 431.085 to be
6 a member of the state military forces ordered into active service of
7 the state by proper authority and is considered to be discharging a
8 duty in that capacity if:

9 (1) the officer, employee, or volunteer is performing
10 the homeland security activity under procedures prescribed or
11 circumstances described for the purpose of this section in the
12 governor's homeland security strategy;

13 (2) in the case of a volunteer, the volunteer is acting
14 within the course and scope of the request or direction of the
15 officer or employee of the state or local agency; and

16 (3) in the case of an officer or employee of a state or
17 local agency, the officer or employee is acting within the course
18 and scope of the person's authority.

19 (b) A person described by Subsection (a) is not immune from
20 civil liability under Section 431.085 for damages resulting from
21 the performance of a homeland security activity if, under the
22 circumstances, the person's performance of the homeland security
23 activity was wilfully or wantonly negligent or done with conscious
24 indifference or reckless disregard for the safety of persons this
25 chapter is intended to protect.

26 (c) This section does not make a person a member of the state
27 military forces for any other purpose, including for purposes of

1 the application of the Uniform Code of Military Justice.

2 (d) This section does not affect the application of Section
3 431.085 on its own terms to a person who is a member of the state
4 military forces ordered into active service of the state by proper
5 authority under other law.

6 Sec. 421.062. LIABILITY UNDER INTERLOCAL CONTRACT. (a) In
7 this section, "interlocal contract" has the meaning assigned by
8 Section 791.003.

9 (b) A state or local agency that furnishes a service related
10 to a homeland security activity under an interlocal contract is
11 immune from civil liability for any act or omission resulting in
12 death, damage, or injury while acting under the interlocal contract
13 if:

14 (1) the interlocal contract expressly states that the
15 furnishing state or local agency is not responsible for any civil
16 liability that arises from the furnishing of a service under the
17 contract; and

18 (2) the state or local agency committed the act or
19 omission while acting in good faith and in the course and scope of
20 its functions to provide a service related to a homeland security
21 activity.

22 (c) This section may not be interpreted as a waiver of any
23 immunity that might exist in the absence of an interlocal contract
24 or a provision in an interlocal contract as set forth in Subsection
25 (b).

26 [Sections 421.063-421.070 reserved for expansion]

27 SUBCHAPTER D. COOPERATION AND ASSISTANCE; FUNDING

1 Sec. 421.071. COOPERATION AND ASSISTANCE. A state or local
2 agency that performs a homeland security activity or a
3 nongovernmental entity that contracts with a state or local agency
4 to perform a homeland security activity shall cooperate with and
5 assist the office of the governor, the Critical Infrastructure
6 Protection Council, the Texas Infrastructure Protection
7 Communications Center, and the National Infrastructure Protection
8 Center in the performance of their duties under this chapter and
9 other state or federal law.

10 Sec. 421.072. FUNDING. (a) The office of the governor
11 shall:

12 (1) allocate available federal and state grants and
13 other funding related to homeland security to state and local
14 agencies that perform homeland security activities;

15 (2) periodically review the grants and other funding
16 for appropriateness and compliance; and

17 (3) designate state administering agencies to
18 administer all grants and other funding to the state related to
19 homeland security.

20 (b) State and local agencies that perform homeland security
21 activities shall inform the office of the governor about any
22 actions taken relating to requests for revenue, grants, or other
23 funding for homeland security activities or initiatives.

24 (c) A state or local agency that receives a grant or other
25 funding related to homeland security must provide an annual report
26 to the office of the governor detailing the agency's compliance
27 with the state homeland security strategy.

1 [Sections 421.073-421.080 reserved for expansion]

2 SUBCHAPTER E. TEXAS INFRASTRUCTURE PROTECTION

3 COMMUNICATIONS CENTER

4 Sec. 421.081. FACILITIES AND ADMINISTRATIVE SUPPORT. The
5 Department of Public Safety of the State of Texas shall provide
6 facilities and administrative support for the Texas Infrastructure
7 Protection Communications Center.

8 Sec. 421.082. POWERS AND DUTIES. (a) The center shall
9 serve as the state's primary entity for the planning, coordination,
10 and integration of government communications capabilities to help
11 implement the governor's homeland security strategy and ensure an
12 effective response in the event of a homeland security emergency.

13 (b) The center's duties include:

14 (1) promotion of emergency preparedness;

15 (2) receipt and analysis of information, assessment of
16 threats, and issuance of public warnings related to homeland
17 security emergencies; and

18 (3) authorization and facilitation of cooperative
19 efforts related to emergency response and recovery efforts in the
20 event of a homeland security emergency.

21 (c) In performing its duties under this section, the center
22 shall aim to:

23 (1) reduce the vulnerability of at-risk or targeted
24 entities to homeland security emergencies; and

25 (2) prevent or minimize damage, injury, loss of life,
26 and loss of property in the event of a homeland security emergency.

27 (d) The center shall perform its duties under circumstances

1 prescribed by and as directed by the governor's homeland security
2 strategy.

3 SECTION 2. Section 418.175(a), Government Code, is amended
4 to read as follows:

5 (a) Information that relates to physically or mentally
6 disabled individuals or other [~~medically fragile~~] individuals with
7 special needs and that is maintained for purposes of emergency
8 management or disaster planning is confidential [~~and excepted from~~
9 ~~required disclosure under Chapter 552~~].

10 SECTION 3. Subchapter H, Chapter 418, Government Code, is
11 amended by adding Sections 418.176-418.183 to read as follows:

12 Sec. 418.176. CONFIDENTIALITY OF CERTAIN INFORMATION
13 RELATING TO EMERGENCY RESPONSE PROVIDERS. (a) Information is
14 confidential if the information is collected, assembled, or
15 maintained by or for a governmental entity for the purpose of
16 preventing, detecting, responding to, or investigating an act of
17 terrorism or related criminal activity and:

18 (1) relates to the staffing requirements of an
19 emergency response provider, including a law enforcement agency, a
20 fire-fighting agency, or an emergency services agency;

21 (2) relates to a tactical plan of the provider; or

22 (3) consists of a list or compilation of pager or
23 telephone numbers, including mobile and cellular telephone
24 numbers, of the provider.

25 (b) In this section and Sections 418.177-418.183,
26 "governmental entity" includes the governing body of a nonprofit
27 corporation organized under Chapter 67, Water Code, that provides a

1 water supply or wastewater service, or both, and is exempt from ad
2 valorem taxation under Section 11.30, Tax Code.

3 Sec. 418.177. CONFIDENTIALITY OF CERTAIN INFORMATION
4 RELATING TO RISK OR VULNERABILITY ASSESSMENT. Information is
5 confidential if the information:

6 (1) is collected, assembled, or maintained by or for a
7 governmental entity for the purpose of preventing, detecting, or
8 investigating an act of terrorism or related criminal activity; and

9 (2) relates to an assessment by or for a governmental
10 entity, or an assessment that is maintained by a governmental
11 entity, of the risk or vulnerability of persons or property,
12 including critical infrastructure, to an act of terrorism or
13 related criminal activity.

14 Sec. 418.178. CONFIDENTIALITY OF CERTAIN INFORMATION
15 RELATING TO CONSTRUCTION OR ASSEMBLY OF WEAPONS. (a) In this
16 section, "explosive weapon" has the meaning assigned by Section
17 46.01, Penal Code.

18 (b) Information is confidential if it is information
19 collected, assembled, or maintained by or for a governmental entity
20 and:

21 (1) is more than likely to assist in the construction
22 or assembly of an explosive weapon or a chemical, biological,
23 radiological, or nuclear weapon of mass destruction; or

24 (2) indicates the specific location of:

25 (A) a chemical, biological agent, toxin, or
26 radioactive material that is more than likely to be used in the
27 construction or assembly of such a weapon; or

1 (B) unpublished information relating to a
2 potential vaccine or to a device that detects biological agents or
3 toxins.

4 Sec. 418.179. CONFIDENTIALITY OF CERTAIN ENCRYPTION CODES
5 AND SECURITY KEYS FOR COMMUNICATIONS SYSTEM. (a) Information is
6 confidential if the information:

7 (1) is collected, assembled, or maintained by or for a
8 governmental entity for the purpose of preventing, detecting, or
9 investigating an act of terrorism or related criminal activity; and

10 (2) relates to the details of the encryption codes or
11 security keys for a public communications system.

12 (b) This section does not prohibit a governmental entity
13 from making available, at cost, to bona fide local news media, for
14 the purpose of monitoring emergency communications of public
15 interest, the communications terminals used in the entity's trunked
16 communications system that have encryption codes installed.

17 Sec. 418.180. CONFIDENTIALITY OF CERTAIN INFORMATION
18 PREPARED FOR UNITED STATES. Information, other than financial
19 information, in the possession of a governmental entity is
20 confidential if the information:

21 (1) is part of a report to an agency of the United
22 States;

23 (2) relates to an act of terrorism or related criminal
24 activity; and

25 (3) is specifically required to be kept confidential:

26 (A) under Section 552.101 because of a federal
27 statute or regulation;

1 (B) to participate in a state-federal
2 information sharing agreement; or
3 (C) to obtain federal funding.

4 Sec. 418.181. CONFIDENTIALITY OF CERTAIN INFORMATION
5 RELATING TO CRITICAL INFRASTRUCTURE. Those documents or portions
6 of documents in the possession of a governmental entity are
7 confidential if they identify the technical details of particular
8 vulnerabilities of critical infrastructure to an act of terrorism.

9 Sec. 418.182. CONFIDENTIALITY OF CERTAIN INFORMATION
10 RELATING TO SECURITY SYSTEMS. (a) Except as provided by
11 Subsections (b) and (c), information, including access codes and
12 passwords, in the possession of a governmental entity that relates
13 to the specifications, operating procedures, or location of a
14 security system used to protect public or private property from an
15 act of terrorism or related criminal activity is confidential.

16 (b) Financial information in the possession of a
17 governmental entity that relates to the expenditure of funds by a
18 governmental entity for a security system is public information
19 that is not excepted from required disclosure under Chapter 552.

20 (c) Information in the possession of a governmental entity
21 that relates to the location of a security camera in a private
22 office at a state agency, including an institution of higher
23 education, as defined by Section 61.003, Education Code, is public
24 information and is not excepted from required disclosure under
25 Chapter 552 unless the security camera:

26 (1) is located in an individual personal residence for
27 which the state provides security; or

1 (2) is in use for surveillance in an active criminal
2 investigation.

3 Sec. 418.183. DISCLOSURE OF CERTAIN CONFIDENTIAL
4 INFORMATION. (a) This section applies only to information that is
5 confidential under Sections 418.175-418.182.

6 (b) At any time during a state of disaster, the executive or
7 administrative head of the governmental entity may voluntarily
8 disclose or otherwise make available all or part of the
9 confidential information to another person or another entity if the
10 executive or administrative head believes that the other person or
11 entity has a legitimate need for the information.

12 (c) The executive or administrative head of a port, port
13 authority, or navigation district created or operating under
14 Section 52, Article III, or Section 59, Article XVI, Texas
15 Constitution, may voluntarily disclose or otherwise make available
16 all or part of the confidential information to another person if the
17 information:

18 (1) is shared in connection with a security network or
19 committee, including a federal or state security committee or task
20 force;

21 (2) consists of data, video, or other information on
22 an information-sharing device that is shared with a security
23 network; or

24 (3) is shared with an emergency operations center.

25 (d) The disclosure or making available of confidential
26 information by a hospital district to a national accreditation body
27 does not waive or affect the confidentiality of the information.

1 (e) The disclosure or making available of confidential
2 information under Subsection (b) or (c) does not waive or affect the
3 confidentiality of the information.

4 (f) A governmental body subject to Chapter 551 is not
5 required to conduct an open meeting to deliberate information to
6 which this section applies. Notwithstanding Section 551.103(a),
7 the governmental body must make a tape recording of the proceedings
8 of a closed meeting to deliberate the information.

9 SECTION 4. Section 431.051, Government Code, is amended to
10 read as follows:

11 Sec. 431.051. SUPPLEMENTAL VOLUNTEER MILITARY FORCES
12 [MILITIA]. To provide mission-ready volunteer military forces
13 [militia strength] for use by the state in homeland security and
14 community service activities as a supplement to the Texas National
15 Guard, the Texas State Guard exists as part of the state militia
16 under the Second Amendment to the United States Constitution and a
17 defense force under 32 U.S.C. Section 109.

18 SECTION 5. Section 431.052(b), Government Code, is amended
19 to read as follows:

20 (b) To volunteer for service in the Texas State Guard a
21 person must:

22 (1) be a resident of this state for at least 180 days
23 and:

24 (A) a [state] citizen of the United States; or

25 (B) a person who has been lawfully admitted to
26 the United States for permanent residence under the Immigration and
27 Nationality Act (8 U.S.C. Section 1101 et seq.);

- 1 (2) be at least 17 years of age;
- 2 (3) meet qualifications that the governor prescribes;
- 3 and
- 4 (4) be acceptable to and approved by the governor or
- 5 adjutant general under the governor's direction.

6 SECTION 6. Subchapter C, Chapter 662, Government Code, is

7 amended by adding Section 662.050 to read as follows:

8 Sec. 662.050. TEXAS FIRST RESPONDERS DAY. (a) September 11

9 is Texas First Responders Day in honor of the bravery, courage, and

10 determination of Texas men and women who assist others in

11 emergencies.

12 (b) Texas First Responders Day shall be regularly observed

13 by appropriate ceremonies in the public schools and other places to

14 honor Texas first responders.

15 SECTION 7. Section 81.042(e), Health and Safety Code, is

16 amended to read as follows:

17 (e) The following persons shall report to the local health

18 authority or the department a suspected case of a reportable

19 disease and all information known concerning the person who has or

20 is suspected of having the disease if a report is not made as

21 required by Subsections (a)-(d):

- 22 (1) a professional registered nurse;
- 23 (2) an administrator or director of a public or
- 24 private temporary or permanent child-care facility;
- 25 (3) an administrator or director of a nursing home,
- 26 personal care home, maternity home, adult respite care center, or
- 27 adult day-care center;

- 1 (4) an administrator of a home health agency;
- 2 (5) an administrator or health official of a public or
- 3 private institution of higher education;
- 4 (6) an owner or manager of a restaurant, dairy, or
- 5 other food handling or processing establishment or outlet;
- 6 (7) a superintendent, manager, or health official of a
- 7 public or private camp, home, or institution;
- 8 (8) a parent, guardian, or householder;
- 9 (9) a health professional; [~~or~~]
- 10 (10) an administrator or health official of a penal or
- 11 correctional institution; or
- 12 (11) emergency medical service personnel, a peace
- 13 officer, or a firefighter.

14 SECTION 8. Subchapter B, Chapter 562, Occupations Code, is

15 amended by adding Section 562.055 to read as follows:

16 Sec. 562.055. REPORT TO TEXAS DEPARTMENT OF HEALTH. A

17 pharmacist shall report to the Texas Department of Health any

18 unusual or increased prescription rates, unusual types of

19 prescriptions, or unusual trends in pharmacy visits that may be

20 caused by bioterrorism, epidemic or pandemic disease, or novel and

21 highly fatal infectious agents or biological toxins that might pose

22 a substantial risk of a significant number of human fatalities or

23 incidents of permanent or long-term disability.

24 Prescription-related events that require a report include:

- 25 (1) an unusual increase in the number of:
- 26 (A) prescriptions to treat respiratory or
- 27 gastrointestinal complaints or fever;

(B) prescriptions for antibiotics; and

(C) requests for information on over-the-counter pharmaceuticals to treat respiratory or gastrointestinal complaints or fever; and

(2) any prescription that treats a disease that is relatively uncommon and has bioterrorism potential.

SECTION 9. Sections 161.101(a), (b), and (c), Agriculture Code, are amended to read as follows:

(a) A veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal shall report the existence of the following diseases among livestock, exotic livestock, bison, domestic fowl, or exotic fowl to the commission within 24 hours after diagnosis of the disease:

(1) anthrax;

(2) avian infectious laryngotracheitis;

(3) avian influenza;

(4) avian tuberculosis;

(5) chronic wasting disease;

(6) duck virus enteritis;

(7) duck virus hepatitis;

(8) equine encephalomyelitis;

(9) equine infectious anemia;

(10) infectious encephalomyelitis in poultry or other fowl;

(11) ornithosis;

(12) paramyxovirus infection in poultry or other fowl;

or

(13) scabies in sheep or cattle.

(b) In addition to reporting required by Subsection (a), the commission may adopt rules that require a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal to report the existence of a disease other than bluetongue in an animal to the commission within 24 hours after diagnosis if the disease:

(1) is recognized by the United States Department of Agriculture as a foreign animal disease;

(2) is the subject of a cooperative eradication program with the United States Department of Agriculture;

(3) is named on "List A" of the Office International Des Epizooties; or

(4) is the subject of a state of emergency, as declared by the governor.

(c) The commission may adopt rules that require a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal to report a disease not covered by Subsection (a) or (b) if the commission determines that action to be necessary for the protection of animal health in this state. The commission shall immediately deliver a copy of a rule adopted under this subsection to the appropriate legislative oversight committees. A rule adopted by the commission under this subsection expires on the first day after the last day of the first regular legislative session that begins after adoption of the rule unless the rule is continued in effect by act of the legislature.

SECTION 10. (a) The governor shall develop a statewide

1 homeland security strategy as required by Section 421.002,
2 Government Code, as added by this Act, not later than September 1,
3 2004.

4 (b) The head of each entity listed in Section 421.021,
5 Government Code, as added by this Act, shall appoint a
6 representative to the Critical Infrastructure Protection Council,
7 as required by that section, not later than December 1, 2003.

8 SECTION 11. (a) It is the intent of the legislature that no
9 provision in this Act should be construed to affect current state or
10 federal law concerning military support to civilian law enforcement
11 personnel in this state and that any military support to civilian
12 law enforcement personnel in this state must be carried out in
13 strict compliance with the constitution, statutes, rules, and
14 regulations of the United States.

15 (b) Subsection (a) does not affect the civil liability
16 provisions of Subchapter C, Chapter 421, Government Code, as added
17 by this Act.

18 SECTION 12. This Act takes effect immediately if it
19 receives a vote of two-thirds of all the members elected to each
20 house, as provided by Section 39, Article III, Texas Constitution.
21 If this Act does not receive the vote necessary for immediate
22 effect, this Act takes effect September 1, 2003.

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SECTION 1. Adds Chapter 421, Government Code, Homeland Security, as follows:

Subchapter A. General Provisions.

Sec. 421.001. Definitions.

Sec. 421.002. Homeland Security Strategy. Provides that the governor shall develop a statewide homeland security strategy.

Sec. 421.003. Criminal Intelligence Information.

No equivalent provision. (Sections 421.004-421.020 reserved for expansion.)

Subchapter B. Critical Infrastructure Protection Council.

Sec. 421.021. Membership. Provides for a Critical Infrastructure Protection Council composed of the governor or the governor's designee and one representative each from the secretary of state's office, Texas Department of Agriculture, attorney general's office, General Land Office, Texas Animal Health Commission, state fire marshal's office, Texas Commission on Volunteerism and Community Service,

SENATE VERSION

SECTION 1. Same as House version, except as follows:

Subchapter A. Same heading as House version.

Sec. 421.001. Same as House version.

Sec. 421.002. Same as House version, except to provide that the governor shall direct homeland security in the state, as well as develop the strategy.

Sec. 421.003. Same as House version.

Sec. 421.004. Provisions Governing Mobile Tracking Devices. Provides that in the event of a conflict between Sec. 14, Art. 18.21, Code of Criminal Procedure, and Chapter 421 or a rule adopted under that chapter, the Code of Criminal Procedure controls. (Sections 421.005-421.020 reserved for expansion.) (FA4)

Subchapter B. Same heading as House version.

Sec. 421.021. Similar to House version, but deletes representation of the secretary of state's office, Texas Animal Health Commission, state fire marshal's office, Texas Commission on Volunteerism and Community Service, Commission on State Emergency Communications, Texas Department of Human Services, Texas Education Agency, and Parks and Wildlife Department and adds a member

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SECTION 1. Same as House version, except as follows:

Subchapter A. Same heading as House version.

Sec. 421.001. Same as House version.

Sec. 421.002. Same as Senate version.

Sec. 421.003. Same as House version.

Sec. 421.004. Same as Senate version.

Subchapter B. Same heading as House version.

Sec. 421.021. Same as Senate version.

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Commission on State Emergency Communications, Public Utility Commission of Texas, Texas Department of Health, Texas Department of Human Services, Department of Information Resources, Department of Public Safety, division of emergency management of the governor's office, Texas Department of Transportation, Texas Education Agency, Texas National Guard, Texas Commission on Environmental Quality, Parks and Wildlife Department, and Railroad Commission of Texas.	representing the Texas Strategic Military Planning Commission.	
Sec. 421.022. Reimbursement of Expenses.	Sec. 421.022. Same as House version.	Sec. 421.022. Same as House version.
Sec. 421.023. Administration.	Sec. 421.023. Same as House version.	Sec. 421.023. Same as House version.
Sec. 421.024. Duties.	Sec. 421.024. Same as House version.	Sec. 421.024. Same as House version.
Sec. 421.025. Special Advisory Committees.	Sec. 421.025. Same as House version.	Sec. 421.025. Same as House version.
Sec. 421.026. Report.	Sec. 421.026. Same as House version.	Sec. 421.026. Same as House version.
Subchapter C. Civil Liability for Acts or Omissions.	Subchapter C. Same heading as House version.	Subchapter C. Same heading as House version.
Sec. 421.061. Civil Liability.	Sec. 421.061. Same as House version.	Sec. 421.061. Same as House version.
Sec. 421.062. Liability Under Interlocal Contract, as follows:	Sec. 421.062. Same as House version, except as follows:	Sec. 421.062. Same as House version, except as follows:
(a) Gives "interlocal contract" the meaning assigned by Sec. 791.003, Government Code.	(a) Same as House version.	(a) Same as House version.

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(b) Provides that a state or local agency that furnishes a service related to a homeland security activity under an interlocal contract is immune from civil liability for any act or omission resulting in death, damage, or injury while acting under the contract under certain circumstances..

(b) Same as House version.

(b) Same as House version.

No equivalent provision.

(c) Provides that the section *shall not* be interpreted as a waiver of any immunity that might exist in the absence of an interlocal contract or a provision in an interlocal contract as set forth in *paragraph (b) above*. (FA1)

(c) Same as Senate version, except to substitute *may not* for *shall not* and to refer to *Subsection (b)*.

Subchapter D. Cooperation and Assistance; Funding.

Subchapter D. Same heading as House version.

Subchapter D. Same heading as House version.

Sec. 421.071. Cooperation and Assistance.

Sec. 421.071. Same as House version.

Sec. 421.071. Same as House version.

Sec. 421.072. Funding. Requires the governor's office to designate *a single state agency* to administer all grants and other funding to the state related to homeland security.

Sec. 421.072. Same as House version, except to require the governor's office to designate *state administering agencies* for grant and funding administration.

Sec. 421.072. Same as Senate version.

Subchapter E. Texas Infrastructure Protection Communications Center.

Subchapter E. Same heading as House version.

Subchapter E. Same heading as House version.

Sec. 421.081. Facilities and Administrative Support.

Sec. 421.081. Same as House version.

Sec. 421.081. Same as House version.

Sec. 421.082. Powers and Duties.

Sec. 421.082. Same as House version.

Sec. 421.082. Same as House version.

No equivalent provision.

SECTION 2. Amends Sec. 418.175(a), Government Code, to provide that information that relates to physically or mentally disabled individuals or other individuals with special needs,

SECTION 2. Same as Senate version.

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and that is maintained for purposes of emergency or disaster planning, is confidential.

No equivalent provision.

SECTION 3. Adds Secs. 418.176-418.183, Government Code, as follows:

SECTION 3. Same as Senate version, except as follows:

No equivalent provision.

Sec. 418.176. Confidentiality of Certain Information Relating to Emergency Response Providers. Makes governmental entity information confidential if its purpose is to prevent, detect, respond to, or investigate an act of terrorism or related criminal activity, and it relates to the staffing requirements or a tactical plan of an emergency response provider or consists of a list or compilation of pager or telephone numbers of the provider. Clarifies that in the added SECTION 3 statute sections a governmental entity includes the governing body of a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Sec. 11.30, Tax Code.

Sec. 418.176. Same as Senate version.

No equivalent provision.

Sec. 418.177. Confidentiality of Certain Information Relating to Risk or Vulnerability Assessment. Makes governmental entity information confidential if its purpose is to prevent, detect, respond to, or investigate an act of terrorism or related criminal activity and it relates to an assessment by or for a governmental entity, or an assessment maintained by a governmental entity, of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity.

Sec. 418.177. Same as Senate version.

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No equivalent provision.

Sec. 418.178. Confidentiality of Certain Information Relating to Construction or Assembly of Weapons. Makes governmental entity information confidential if it is more than likely to assist in the construction or assembly of an explosive weapon of a chemical, biological, radiological, or nuclear weapon of mass destruction. Makes governmental entity information confidential if it indicates the specific location of a chemical, biological agent, toxin, or radioactive material that is more than likely to be used in the construction or assembly of such a weapon. Makes governmental entity information confidential if it indicates the specific location of unpublished information relating to a potential vaccine or to a device that detects biological agents or toxins.

Sec. 418.178. Same as Senate version.

No equivalent provision.

Sec. 418.179. Confidentiality of Certain Encryption Codes and Security Keys for Communications System. Makes governmental information confidential if its purpose is to prevent, detect, or investigate an act of terrorism or related criminal activity and it relates to the details of the encryption codes or security keys for a public communications system. Provides that the section does not prohibit a governmental entity from making available at cost, to bona fide local news media for the purpose of monitoring emergency communications of public interest, the communications terminals used in the entity's trunked communications system that have encryption codes installed.

Sec. 418.179. Same as Senate version.

No equivalent provision.

Sec. 419.180. Confidentiality of Certain Information Prepared for *the United States*. Makes governmental entity

Sec. 419.180. Confidentiality of Certain Information Prepared for *United States*. Same as Senate version, except

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information, other than financial information, confidential if it is part of a report to a federal agency, relates to an act of terrorism or related criminal activity, and is specifically required to be kept confidential to obtain federal funding, to participate in a state-federal information sharing agreement, or under Sec. 552.101, Government Code, because of a federal statute or regulation. (FA2)

for technical changes relating to the reference to Sec. 552.101 and subdivision designations.

No equivalent provision.

Sec. 418.181. Confidentiality of Certain Information Relating to Critical Infrastructure. Makes confidential documents or portions of documents in the possession of a governmental entity if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

Sec. 418.181. Same as Senate version.

No equivalent provision.

Sec. 418.182. Confidentiality of Certain Information Relating to Security Systems. Makes information possessed by a governmental entity, including access codes and passwords, confidential if it relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity. Provides that financial information that relates to a governmental entity's expenditure of funds for a security system is public and not excepted from required disclosure under the open records law. Provides that information that relates to the location of a security camera in a private office at a state agency, unless the camera is in use for surveillance in an active criminal investigation or is located in an individual personal residence for which the state provides security, also is public and not excepted from

Sec. 418.182. Same as Senate version.

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No equivalent provision.

required disclosure under the open records law. (FA5)

Sec. 418.183. Disclosure of Certain Confidential Information. For information made confidential under Secs. 418.175-418.182, provides that at any time during a state of disaster, the executive or administrative head of the governmental entity may voluntarily disclose or make available all or part of the information to another person or entity if the executive or administrative head perceives a legitimate need. Authorizes the executive or administrative head of a port, port authority, or navigation district to voluntarily disclose or make available all or part of confidential information in specified circumstances. Provides that such voluntary disclosures, or a hospital district's action to disclose or make available information to a national accreditation body, does not waive or affect the information's confidentiality. Provides that a governmental body subject to the open meetings law is not required to conduct an open meeting to deliberate information to which Sec. 418.183 applies. Requires the governmental body to make a tape recording of the proceedings of a closed meeting to deliberate the information.

Sec. 418.183. Same as Senate version.

SECTION 2. Amends Sec. 431.051, Government Code, Supplemental Volunteer Military Forces.

SECTION 4. Same as House version.

SECTION 4. Same as House version.

SECTION 3. Amends Sec. 431.052(b), Government Code, to provide that, to volunteer for service in the Texas State Guard, a person must be a United States citizen and a

SECTION 5. Similar to House version. Provides that, to volunteer for service in the Texas State Guard, a person must be a resident of Texas for at least 180 days and either a United

SECTION 5. Same as Senate version.

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resident of Texas for at least 180 days.	States citizen or a person who has been lawfully admitted to the United States for permanent residence under the federal Immigration and Nationality Act. (FA3)	
SECTION 4. Adds Sec. 662.050, Government Code, Texas First Responders Day.	SECTION 6. Same as House version.	SECTION 6. Same as House version.
No equivalent provision.	SECTION __. Amends Sec. 81.042(e), Health and Safety Code, to require emergency medical service personnel, a peace officer, or a firefighter to report to the local health authority or the Texas Department of Health a suspected case of a reportable disease, and all information known about the person who has or is suspected of having the disease, if a report is not otherwise made under Secs. 81.042(a)-(d), Health and Safety Code. (FA7)	SECTION 7. Same as Senate version.
No equivalent provision.	SECTION __. Adds Sec. 562.055, Occupations Code, Report to Texas Department of Health. Requires a pharmacist to report any unusual or increased prescription rates, unusual types of prescriptions, or unusual trends in pharmacy visits that may be caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agents or biological toxins that might post a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. Lists four types of prescription-related events that require a report. (FA7)	SECTION 8. Same as Senate version, except to clarify in the text that a required pharmacist report goes to the Texas Department of Health, and to make minor wording and formatting changes to the list of the types of events that require a report.
No equivalent provision.	SECTION __. Amends Secs. 161.101(a)-(c), Agriculture Code, to require a veterinary diagnostic laboratory or a person	SECTION 9. Same as Senate version.

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having care, custody, or control of an animal, to report to the Texas Animal Health Commission within 24 hours the existence of any of 13 listed diseases occurring among livestock, exotic livestock, bison, domestic fowl, or exotic fowl. Authorizes the commission to add such a laboratory or person to those who may be required by its rules to report certain other diseases under (b) or (c) of the section. (FA7)

SECTION 5. Transition provisions relating to the governor's development of a statewide homeland security strategy and the appointment of representatives to the Critical Infrastructure Protection Council.

No equivalent provision.

SECTION 6. Provides for a September 1, 2003, effective date.

SECTION 7. Same as House version.

SECTION 8. (a) Expresses legislative intent that no provision of the act should be construed to affect current state or federal law concerning military support to civilian law enforcement personnel in the state and that any such support must be carried out in strict compliance with the constitution, statutes, rules, and regulations of the United States. (b) Provides that the intent as expressed in (a) does not affect the civil liability provisions of Subchapter C, Chapter 421, Government Code, as added by the act.

SECTION 9. Same as House version.

SECTION 10. Same as House version.

SECTION 11. Same as Senate version.

SECTION 12. Provides for immediate effect if the act receives the requisite two-thirds vote of both chambers, or for an effective date of September 1, 2003, otherwise.